



Note: Staff reports can be accessed at www.mncppc.org/pgco/planning/plan.htm.

Preliminary Plan 4-04124

Application	General Data
Project Name: HENDERSON PROPERTY Location: Southwest corner of the intersection of MD 450 and MD 193. Applicant/Address: PIMB 2200 Defense Highway, Suite #101 Crofton, MD. 21114	Date Accepted: 08/8/04
	Planning Board Action Limit: 02/02/05
	Plan Acreage: 7.22
	Zone: R-R
	Lots: 11
	Parcel: 2
	Planning Area: 70
	Tier: Developing
	Council District: 05
	Municipality: N/A
	200-Scale Base Map: 207NE10/11

Purpose of Application	Notice Dates
RESIDENTIAL SUBDIVISION	Adjoining Property Owners Previous Parties of Record Registered Associations: (CB-58-2003) 07/8/04
	Sign(s) Posted on Site and Notice of Hearing Mailed: 12/14/04

Staff Recommendation		Staff Reviewer: Whitney Chellis	
APPROVAL	APPROVAL WITH CONDITIONS	DISAPPROVAL	DISCUSSION
	X		

THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

PRINCE GEORGE'S COUNTY PLANNING BOARD

STAFF REPORT

SUBJECT: Preliminary Plan of Subdivision 4-04124
Henderson Property Lots 1-11, Parcel A and B

OVERVIEW

The subject property is located on Tax Map 45, Grid E-3, and is known as Parcel 115. The property is approximately 7.22 acres and is zoned R-R. The applicant is proposing to subdivide the property into 11 lots and two parcels in conformance with the standards for conventional development in the R-R Zone. The property is currently developed with a day care center known as La Petite Day Care, approved pursuant to SE 3858 in 1989. The preliminary plan proposes two parcel A's and should be revised to proposed Parcel A and B prior to signature approval of the preliminary plan.

One parcel is 1.08 acres and contains the existing La Petite Day Care Center, which is to remain. The second parcel is proposed at 3,806 square feet and is to be conveyed to M-NCPPC for the fulfillment of the requirements of the mandatory dedication of parkland. This parcel does not meet the minimum requirements of Section 24-134 of the Subdivision Regulations. A M-NCPPC public park is located abutting the property to the south. The applicant proposes this narrow 30-foot-wide strip of land to be conveyed to M-NCPPC to provide access to the public park. The park, known as the Holmehurst West Neighborhood Playground, is developed with two tennis courts, two playgrounds, a picnic area, a pavilion, and a walking trail. The applicant was advised in August 2004 that the requirement for mandatory dedication of land is 15,681 square feet and that the preliminary plan as proposed did not meet the requirements, would not be supported by staff, and should be revised to reflect the correct amount of dedication. The applicant's proposal for access remains insufficient and has not been revised from the original submittal.

The land that the applicant is proposing to convey is almost entirely encumbered by a 20-foot-wide sanitary sewer easement and, therefore, is too narrow and not suitable for parkland access. The Department of Parks and Recreation (DPR) recommends that a large open space window, consistent with what is required by Section 24-134 of the Subdivision Regulations, be required and conveyed to M-NCPPC for public park purposes. This open space window can provide sufficient buffering from the dwellings on abutting lots, as well as providing additional opportunity for new facilities if appropriate. Current access to the Holmehurst West Neighborhood Playground Park is via Point Way to the south. The residents of this new development along with a significant number of the existing neighborhood residents could be better served by direct access to the existing parkland from this site. This additional point of access will also provide relief from the existing park access and distribute the pedestrian movements between the two points of access.

There exist two other design and layout issues, beyond insufficient parkland dedication. The site is located at the intersection of MD 450 and MD 193. The site is significantly encumbered by noise intrusion from these roadways. Buffering and the retention of existing on-site woodland are essential. Staff advised the applicant in August 2004 that the dwelling to be located on Lot 5 should be pulled back from the intersection of these two streets. Because of the limited street frontage associated with the cul-de-sac at the terminus of Parallel Road, the applicant is forced to provide an unconventional flag lot, forcing the dwelling on the flag

lot (Lot 5) toward the intersection of MD 450 and MD 193 and proposes a lotting pattern that places the lot lines of other lots (Lot 5, 6 and 7) in undesirable relationships to the dwellings. The side lot lines of Lot 5, 6 and 7 are located in front yards of the dwellings on these lots. Staff does not support the use of a flag lot on this site and recommends that Lot 5 be deleted (as discussed further in Finding 13 of this report). With the deletion of Lot 5, the dwellings at the terminus of the cul-de-sac can be pulled away from the intersection of MD 450 and MD 193 toward the internal cul-de-sac to create a more conventional relationship between the dwellings and the side lot lines. In addition, this would allow greater flexibility to mitigate noise on those lots.

In addition to the undesirable lotting pattern, the applicant has proposed a reduction in the on-site woodland conservation requirements on the rear of Lot 4 along MD 450. The applicant has proposed more than half of the 2.86 acres of required woodland conservation off site. Staff believes that the retention of on-site woodland is important at this location because of noise and visibility from MD 450. Staff would recommend that with the deletion of Lot 5, a continuous woodland band in relation to MD 193 and 450 could be provided that would result in less clearing, more on-site woodland conservation, and less off-site mitigation.

Staff recommends that the preliminary plan be revised in accordance with Staff Exhibit A, which deletes the flag lot, conforms to the requirements of mandatory dedication of parkland, provides a continual band of woodland conservation along MD 450, pulls the dwellings away from the intersection of MD 450 and MD 193, and provides a more uniform conventional lotting pattern. The revision of the preliminary plan to be consistent with Staff Exhibit A would result in a loss of two lots.

The site is an acreage property never having been the subject of a recorded subdivision plat. The site has, however, been the subject of two previously approved preliminary plans. The most recent, Preliminary Plan 4-89126, approved two lots. One of the lots was to contain the day care center and the second was for future development; that approved preliminary plan has expired. A third preliminary plan was filed in 2003, Preliminary Plan 4-03119, which was withdrawn by the applicant prior to the Planning Board hearing because the property was not located in the proper water and sewer category and was, therefore, not recommended for approval. Subsequent to the withdraw of that application, the applicant has obtained public water and sewer service category 4, appropriate for the development of this property as proposed.

SETTING

The subject property is located in the Southwest corner of the intersection of MD 450 and MD 193. Abutting to the south is an existing developed M-NCPPC park. To the west is an existing R-R single-family dwelling neighborhood.

FINDINGS AND REASONS FOR STAFF RECOMMENDATION

1. **Development Data Summary**—The following information relates to the subject preliminary plan application and the proposed development.

	EXISTING	PROPOSED
Zone	R-R	R-R
Use(s)	Day Care	Single-family/day-care
Acreage	7.22	7.22
Lots	0	11
Parcels	1	2
Dwelling Units:		
Detached	0	11

2. **Environmental**—Based on Year 2000 aerial photos, the site is mostly wooded except for the developed portion where the day care facility is located. Two soils types are on the property. These soils include Collington-fine sandy loam and Shrewsbury-fine sandy loam. Development constraints associated with Collington soils include some limitation where slopes are found in relation to proposed house foundations. Marlboro clay is not present at this site. Significant environmental features such as streams, wetlands, or 100-year floodplain are not located at the site. There are two significant traffic noise generators in the vicinity of the site: MD 193 and 450. There are no scenic or historic roads in vicinity of the site. According to the Maryland Department of Natural Resources publication entitled “Ecologically Significant Areas in Anne Arundel and Prince George’s Counties,” published December 1997, rare, threatened and endangered species are not identified as being associated with this site.

A revised detailed forest stand delineation (FSD) has been submitted and reviewed. Based on minor revisions having been made to the FSD map and text, the FSD meets the requirements of the Prince George’s County Woodland Conservation Ordinance and the Tree Preservation Technical Manual and Policy Document.

One forest stand was identified in the FSD. This stand comprises 5.88 acres of existing woodland and the dominant tree species is yellow poplar. This species is associated with many other species including American beech, white ash, northern red oak, white oak, white ash, hickory, and red maple. A total of 19 specimen trees have been identified at the site. Results of the forest stand analysis conclude the stand has a priority retention based on the diversity of species and because a majority of the forest appears to be less than 30 years old.

The site is subject to the Woodland Conservation Ordinance because the gross tract area is in excess of 40,000 square feet, there are more than 10,000 square feet of woodlands on site, and the site does not have a previously approved tree conservation plan. A revised Type I Tree Conservation Plan (TCPI/74/03-01) has been submitted.

The site’s woodland conservation threshold (WCT) is 1.44 acres. The proposed amount of woodland to be cleared totals 4.74 acres. The site’s woodland conservation requirement totals 2.86 acres. The proposed amount of woodland preservation totals 1.14 acres of on-site preservation and 1.72 acres of off-site mitigation.

Two of the eight requested revisions to the plan have not been made. Several tree preservation areas on the edges of the site in relation to MD 193 and 450 are proposed to fulfill the site’s woodland conservation requirement. The proposed design creates a pattern with breaks or gaps in areas where woodland is preserved but not counted toward the conservation requirements. There is a 50-foot-wide wooded buffer in relation to an existing stormwater management pond behind proposed Lots 2, 3 and 4. The pond was built by the State Highway Administration (SHA) several years ago as part

of a road improvement project for MD 450. In order to provide for the continuous wooded buffer between the back of these lots and the pond as required by the stormwater management concept approval, the plan should be revised to combine proposed Lots 4 and 5 into one lot. This redesign is necessary because one dwelling could be situated on the front building restriction line, while meeting other applicable regulations (including lot width).

Proposed Lots 4 and 5 do not have the required 40 feet of cleared rear yard area between the back of the dwelling and the outer edge of the proposed forest preservation area. Combining proposed Lots 4 and 5 into one lot will allow for the 40 feet of cleared rear yard area and a continuous 50-foot-wide wooded buffer/forest preservation area in relation to the stormwater management pond and Annapolis Road. In addition, the increased amount of forest preservation area in a continuous woodland band in relation to MD 193 and 450 will result in less clearing, more on-site woodland conservation, and less off-site mitigation. After this redesign has been made, the woodland conservation worksheet should be revised accordingly.

The concept approval includes a fee payment in lieu of providing on-site attenuation/quality control measures. A condition of this approval also includes a 50-foot-wide landscape buffer to screen the residential homes from the existing stormwater management pond. Proposed Lot 4 has a portion of the rear yard shown as "woodland retained, but not counted." The proposed LOD on Lot 4 impacts a portion of the required 50-foot-wide landscape buffer. The plan should be revised to show a 50-foot-wide undisturbed landscape buffer on all of proposed Lot 4 in relation to the existing SHA stormwater management pond and adjust the LOD so that the 50-foot-wide buffer is not impacted by it.

Traffic noise impacts are anticipated from the two existing state arterial roads in close proximity to the north and east property lines: MD 193 and 450. A Phase II noise barrier analysis and design report prepared by Polysonics Corp., dated October 15, 2004, has been submitted and reviewed.

A summary of results and seven conclusions from the report are as follows:

"Prince George's County noise code requires that noise levels in residential outdoor activity areas, such as rear yards, not exceed 65 dBA Ldn levels. Future unmitigated outdoor noise levels exceeding 65 dBA Ldn are expected to impact the rear of Lots 1 and 3-6.

"A noise barrier is required for the site. The noise barrier, located along the lot lines of Lots 1-8, is 6-10 feet in height, with the highest sections of the barrier located along Lots 3-5. This noise barrier will function in conjunction with a Maryland State Highway Administration noise barrier that is currently being constructed along eastbound MD 450.

"Detailed drawings depicting noise barrier construction, along with the lengths and heights of the noise barrier that are necessary to meet the county outdoor noise code criterion for these lots, are enclosed.

"Please note that noise barrier heights are dependent upon current roadway elevations and proposed grading. Changes to either of these parameters may have significant impact upon the conclusions and results of this analysis. Should changes occur, it is strongly recommended that this barrier analysis be reevaluated.

“Future unmitigated upper floor noise levels exceeding 65 dBA Ldn will impact proposed single-family homes on Lots 1-7, with the highest levels, 68.0 dBA Ldn, impacting the home on Lot 4.

“Accounting for the mitigation effects of both the State Highway Administration noise barrier and the proposed Henderson property noise barrier, upper floor noise levels exceeding 65 dBA Ldn will impact homes on Lots 4-7, with the highest mitigated upper floor noise levels, 67.4 dBA Ldn, impacting the home on Lot 5.

“Interior noise level requirements (45 dBA Ldn) for impacted homes can be achieved with modified windows, door, and wall construction as necessary. From page 9 of the report, building elements exhibiting the following acoustical ratings may be necessary:

“Building Element	Estimated STC Rating for 68 dBA Impact
“Walls	39 STC
“Windows	28 STC*
“Doors	28 STC

“*Windows and glass doors should not comprise more than 20 percent of the exterior surface of any room.”

The current TCPI shows labels for both the 65 dBA Ldn ground noise contours (unmitigated) and the 65 dBA Ldn upper noise contours (unmitigated). However, the noise contours are not distinguishable on the plan with a corresponding symbol where the labels are shown, and symbols are not in the legend. Both of these contours are shown on the revised preliminary plan with distinguishable symbols for each label and noise contour. The TCPI should be revised so that the two noise contour lines are distinguishable on the plan with corresponding symbols in the legend, similar to how these lines are shown on the revised preliminary plan. The SHA noise barrier is also not shown on the plans and needs to be added.

The revised TCPI does not address the proposed limits of disturbance for installation of the wood noise barrier. The plan must be revised prior to signature approval of the preliminary plan to show the proposed limits of disturbance for installation of the noise barrier. Installation of the noise barrier could result in the requirement for more off-site woodland conservation. If Lot 4 or Lot 5 is deleted as recommended, a reduction in the off-site woodland conservation may be accommodated as well as creating a better environment for the residence of the community by allowing a greater setback from Annapolis Road.

Water and Sewer Categories

The water and sewer service categories are W-3 and S-3 according to water and sewer maps obtained from the Department of Environmental Resources dated June 2003, and will, therefore, be served by public systems.

3. **Community Planning**—The property is located within the limits of the 1993 approved Glenn Dale-Seabrook-Lanham and Vicinity Master Plan, Planning Area 70 in the Annapolis Road Community. The master plan land use recommendation for the property is low-suburban residential. The 2002 General Plan locates the property in the Developing Tier. One of the visions for this tier is to

maintain a pattern of low- to moderate-density suburban residential communities. The proposed preliminary plan is consistent with the recommendations of the master plan and the General Plan.

4. **Parks and Recreation**—The staff of the Department of Parks and Recreation has reviewed the above referenced preliminary plan and evaluated it for conformance with the *Approved Master Plan and Sectional Map Amendment for Glenn Dale—Seabrook—Lanham and Vicinity (PA 70)*, the Prince George’s County Subdivision Ordinance Section 24-134, and the *Park and Recreation Facilities Guidelines* as they pertain to public parks and recreation.

The mandatory dedication requirement for the subject plan as submitted is 0.36± acres. The applicant proposes 0.09 acre (3,806 square feet) of parkland dedication and places 2,400 square feet of it into sewer easement. The area left outside of the sewer easement is not usable for active or passive recreation.

The existing Holmehurst West Neighborhood Playground is adjacent and to the south of the subject site. The access to the park is several blocks to the south. It contains two tennis courts, two playgrounds, a picnic area, a pavilion and a walking trail. DPR finds that the residents of this neighborhood would be better served by direct access from this newly proposed court.

DPR staff is of the opinion that the proposed parkland dedication area should be expanded to the required 0.36 acre and should not include any utility or tree conservation easements. Staff recommends mandatory dedication of parkland as shown on DPR Exhibit A to provide access to the recreational facilities in the park.

The preliminary plan as proposed by the applicant is not in conformance with Section 24-134 of the Subdivision Regulations. In order to find conformance with Section 24-134 of the Subdivision Regulations, the preliminary plan must be revised in accordance with staff Exhibit A, or DPR is compelled to recommend disapproval.

5. **Trails**—The adopted and approved Glenn Dale-Seabrook-Lanham and Vicinity Master Plan includes two master plan trails in the vicinity of the subject site. MD 450 and MD 193 are both designated as master plan trail/bike corridors. The trail along MD 450 has already been constructed by SHA along the north side of the road, opposite from the subject site.

The master plan also recommends that MD 193 be a Class III bikeway south of Lanham-Severn Road. In the vicinity of the subject site, the bikeway is accommodated by existing wide, asphalt shoulders. SHA has also completed some restriping along MD 193 to further improve bicycle compatibility along this corridor. Staff does not recommend the provision of bikeway signage as part of this subdivision due to the site’s relatively small amount of frontage and the fact that the subdivision does not directly access MD 193.

SIDEWALK CONNECTIVITY:

The existing portion of Parallel Road, which is proposed to extend into this property and provide site access, includes a standard sidewalk along both sides. Staff recommends the continuation of this cross section on the subject site’s portion of the roadway. Therefore, sidewalks should be constructed along both sides of the road, and not just one, as reflected on the submitted preliminary plan.

6. **Transportation**—Due to the size of the subdivision, staff has not required that a traffic study be done. The staff did note that counts of approximately one year in age were available from another source. Therefore, the findings and recommendations outlined below are based upon a review of these materials and analyses conducted by the staff of the Transportation Planning Section, consistent with the *Guidelines for the Analysis of the Traffic Impact of Development Proposals*.

Growth Policy—Service Level Standards

The subject property is in the developing tier, as defined in the General Plan for Prince George's County. As such, the subject property is evaluated according to the following standards:

Links and signalized intersections: Level-of-service (LOS) D, with signalized intersections operating at a critical lane volume (CLV) of 1,450 or better is required in the developing tier.

Unsignalized intersections: The *Highway Capacity Manual* procedure for unsignalized intersections is not a true test of adequacy but rather an indicator that further operational studies need to be conducted. Vehicle delay in any movement exceeding 50.0 seconds is deemed to be an unacceptable operating condition at unsignalized intersections. In response to such a finding, the Planning Board has generally recommended that the applicant provide a traffic signal warrant study and install the signal (or other less costly warranted traffic controls) if deemed warranted by the appropriate operating agency.

The intersection of MD 193 and MD 450 is determined to be the critical intersection for the subject property. This intersection is the nearest signalized intersection to the site and would serve a large portion of the site-generated traffic. The staff had available traffic counts dated 2003. These counts indicate that the critical intersection operates at LOS B, with a CLV of 1,035 during the AM peak hour. During the PM peak hour, the intersection operates at LOS B with a CLV of 1,002.

There are no funded capital projects at this intersection in the county's Capital Improvement Program. The state's Consolidated Transportation Program includes an improvement that would involve the reconstruction and widening of MD 450 between MD 193 and Stonybrook Drive in the City of Bowie, and this project is complete within this intersection. There are approximately 22 approved but unbuilt developments that would affect the intersection. With background growth added, the critical intersection would operate as follows: AM peak hour—LOS C, with a CLV of 1,171; PM peak hour—LOS C, with a CLV of 1,298.

With the development of 11 residences, the site would generate 9 AM (2 in and 7 out) and 11 PM (7 in and 4 out) peak-hour vehicle trips. The site was analyzed with the following trip distribution: 15 percent—south along MD 193; 20 percent—north along MD 193; 35 percent—west along MD 450; and 30 percent—east along MD 450. Given this trip generation and distribution, staff has analyzed the impact of the proposal. With the site added, the critical intersection would operate as follows: AM peak hour—LOS C, with a CLV of 1,176; PM peak hour—LOS D with a CLV of 1,301. Therefore, the critical intersection operates acceptably under existing, background, and total traffic.

The site is adjacent to MD 450 and MD 193. Both roadways are planned arterial facilities, and adequate right-of-way consistent with master plan recommendations exists along both facilities. Therefore, no further dedication is required of this plan.

Access to the site has been very carefully reviewed to ensure that additional lots will not overburden streets within the existing neighborhoods. Access to the 11 proposed lots is intended via an extension of Parallel Road, which is a secondary residential street. This connects to Grid Street, another secondary street that also serves Point Way. A total of 44 homes exist along the current secondary road network. The addition of 11 lots to this network is acceptable since other access is not available. This property shall not have street or driveway access to MD 450 or MD 193.

Based on the preceding findings, the Transportation Planning Section concludes that adequate transportation facilities would exist to serve the proposed subdivision as required under Section 24-124 of the Prince George's County Code if the application is approved.

7. **Schools**—The Historic Preservation and Public Facilities Planning Section has reviewed this subdivision plan for adequacy of school facilities in accordance with Section 24-122.02 of the Subdivision Regulations and CB-30-2003 and CR-23-2003 and concluded the following:

Impact on Affected Public School Clusters

Affected School Clusters #	Elementary School Cluster 2	Middle School Cluster 2	High School Cluster 2
Dwelling Units	12 sfd	12 sfd	12 sfd
Pupil Yield Factor	0.24	0.06	0.12
Subdivision Enrollment	2.88	0.72	1.44
Actual Enrollment	5,623	5,131	10,098
Completion Enrollment	327.84	217.62	398.97
Cumulative Enrollment	152.88	131.88	264.24
Total Enrollment	6,106.60	5,481.22	10,762.65
State-Rated Capacity	5892	4,688	8,770
Percent Capacity	103.64	116.92	122.72

Source: Prince George's County Planning Department, M-NCPPC, December 2003

These figures are correct on the day the referral memo was written. They are subject to change under the provisions of CB-30-2003 and CR-23-2003. Other projects that are approved prior to the public hearing on this project will cause changes to these figures. The numbers shown in the resolution of approval will be the ones that apply to this project.

County Council bill CB-31-2003 establishes a school facilities surcharge in the amount of \$7,000 per dwelling if a building is located between I-495 and the District of Columbia; \$7,000 per dwelling if the building is included within a basic plan or conceptual site plan that abuts an existing or planned mass transit rail station site operated by the Washington Metropolitan Area Transit Authority; or \$12,000 per dwelling for all other buildings.

The school surcharge may be used for the construction of additional or expanded school facilities and renovations to existing school buildings or other systemic changes.

The Historic Preservation and Public Facilities Planning Section staff finds that this project meets the adequate public facilities policies for school facilities contained in Section 24-122.02, CB-30-2003 and CB-31-2003 and CR-23-2003.

8. **Fire and Rescue**—The Historic Preservation and Public Facilities Planning Section has reviewed this subdivision plan for adequacy of fire and rescue facilities and concluded the following:

Fire and Rescue

- a. The existing fire engine service at Glenn Dale Fire Station, Company 18, located at 11900 Glenn Dale Boulevard has a service travel time of 3.27 minutes, which is within the 5.25-minute travel time guideline.
- b. The existing ambulance service at Glenn Dale Fire Station, Company 18, located at 11900 Glenn Dale Boulevard has a service travel time of 3.27 minutes, which is within the 6.25-minute travel time guideline.
- c. The existing paramedic service at Glenn Dale Fire Station, Company 18, located at 11900 Glenn Dale Boulevard has a service travel time of 3.27 minutes, which is within the 7.25-minute travel time guideline.

The proposed subdivision will be within the adequate coverage area of the nearest existing fire/rescue facilities for fire engine, ambulance and paramedic service.

These findings are in conformance with the standards and guidelines contained in the *Approved Public Safety Master Plan* (1990) and the *Guidelines for the Analysis of Development Impact on Fire and Rescue Facilities*.

9. **Police Facilities**—The proposed development is within the service area for Police District II-Bowie. The Planning Board's current test for police adequacy is based on a standard for square footage in police stations relative to the number of sworn duty staff assigned. The standard is 115 square feet per officer. As of January 2, 2004, the county had 823 sworn staff and a total of 101,303 square feet of station space. Based on available space, there is capacity for an additional 57 sworn personnel. This police facility will adequately serve the population generated by the proposed subdivision.
10. **Health Department**—The Health Department has no comment.
11. **Stormwater Management**—The Department of Environmental Resources (DER), Development Services Division, has determined that on-site stormwater management is required. A Stormwater Management Concept Plan, # 24231-2004-00, has been approved with conditions to ensure that development of this site does not result in on-site or downstream flooding. Development must be in accordance with this approved plan.

The stormwater management concept approval letter has been submitted along with an approved stormwater management concept plan. The TCPI shows the proposed method of stormwater management to be an existing pond along the north property line that was built by SHA. The Department of Environmental Resources also required with the concept approval that the applicant maintain a 50-foot-wide buffer to screen the residential homes from the existing SWM pond. The applicant has proposed to remove existing woodland in the rear of Lot 4 to develop this property.

Staff believes that the existing woodland should be preserved to accommodate the requirements of DER and provide greater on-site woodland conservation. If the preliminary plan is revised in accordance with Staff Exhibit A, the tree conservation plan can be revised to preserve and incorporate the existing woodland at the rear of Lot 4 to provide a continuance buffer on lots abutting MD 450.

12. **Historic**—The Planning Board has determined that the possible existence of slave quarters and slave graves on certain properties must be considered in the review of development applications and that potential means for preservation of these resources should be considered. Review of Historic Preservation office files indicates that there may be archeological resources of the antebellum period in the area of the subject site. This land is close to and may be a part of the antebellum Magruder family plantation.

It is possible the site was actively farmed and it is also possible that there were slave dwellings, and slave burials, on this property. Documentary and archeological investigation should be required to determine whether there exists physical evidence of slave dwellings or burials.

Prior to approval of the final plat and/or any disturbance occurring on this property, the applicant should submit a Phase I archeological investigation to the Planning Department staff for review and concurrence, and if determined to be needed, a Phase II and Phase III investigation. The final plat, if necessary, should provide for the avoidance and preservation of the resources in place and should provide appropriate plat notes ensuring the mitigation of any adverse effect upon these resources. All investigations must be conducted by a qualified archeologist and must follow *The Standards and Guidelines for Archeological Investigations in Maryland* (Schaffer and Cole: 1994) and must be presented in a report following the same guidelines.

13. **Flag Lot**—The proposal includes one flag lot, proposed Lot 5. Flag lots are permitted pursuant to Section 24-138.01 of the Subdivision Regulations. The technical design requirements of a flag lot are found in Section 24-138.01(d) as follows:

- a. **A maximum of two tiers are permitted.** The applicant is proposing only one flag lot.
- b. **The flag stem has a minimum width of 25 feet for the entire length of the stem.** The applicant is proposing a 30-foot-wide flag stem.
- c. **The net lot area, exclusive of the stem, must meet the minimum lot size standard.** Lot 5 is 24,350 square feet in size exclusive of the stem.

Although the Subdivision Regulations provides for the technical requirements of flag lots, additional findings are required. The use of flag lots is not permitted by right and is subject to additional scrutiny to ensure that the use of flag lots results in a better environment than that which could be accommodated with the exclusive use of conventional lots.

Staff does not support the use of a flag lot in this particular case based on the following findings:

Section 24-138.01(f) establishes specific findings for the approval of the use of flag lots. The Planning Board must find the following:

- (A) **The design is clearly superior to what would have been achieved under**

conventional subdivision techniques;

Staff Comment: The use of a flag lot has resulted in moving the dwelling on Lot 5 closer to the intersection of MD 450 and MD 193, which is known to be a significant noise generator. By forcing the dwelling on the flag lot (Lot 5) toward the intersection of MD 450 and MD 193, a lotting pattern results that places the lot lines of other lots (Lot 5, 6 and 7) in undesirable relationships to the dwellings. The side lot lines of Lot 5, 6 and 7 are located in front yards of the dwellings on these lots. With the deletion of Lot 5, the dwellings at the terminus of the cul-de-sac can be pulled away from the intersection of MD 450 and MD 193 toward the internal cul-de-sac to create a more conventional relationship between the dwellings and the side lot lines.

(B) The transportation system will function safely and efficiently; and

Staff Comment: The Transportation Planning Section and the Department of Public Works and Transportation have evaluated the applicant's proposed layout and finds that the location of the driveway for the flag lot does not adversely impact the safety or efficiency of the street layout.

(C) The use of flag lots will result in the creative design of a development that blends harmoniously with the site and with adjacent development; and

Staff Comment: The use of a flag lot at the intersection of MD 193 and MD 450 does not and could not be construed as a creative design that blends harmoniously with the adjacent development of those roadway. The use of the flag lot provision is only utilized to increase the lot yield on this site and is not being utilized to create a better environment for the future residents of that lot. To the contrary, by removing the lot a better environment can be accommodated by allowing a better lotting configuration, more woodland conservation (Lot 4) and a more conventional lotting pattern.

(D) The privacy of adjoining property owners has been assured in accordance with the evaluation criteria established above.

Staff Comment: The applicant's proposal does not result in significant stacking of dwelling units. The purpose of utilizing a flag lot is due only to the limited street frontage associated with the internal public street. The applicant has proposed a lot that does not meet the minimum lot width at the front street line and is, therefore, calling it a flag lot.

The applicant submitted a flag lot justification letter dated October 3, 2004. While the letter addressed the requirements relating to the technical standards for a flag lot (Section 24-138.01(d)), the applicant did not adequately address the required findings of Section 24-138.01(f). The applicant only states the following in relationship to Section 24-138.01(f), required findings:

"As previously discussed it is our professional opinion as land planners that this lot meets the integrity of the Subdivision Ordinance. The applicant of this subdivision has extensive experience in Prince George's County in both development and real estate sales of single-family homes. From a marketing standpoint, this lot is not detrimental from a sales aspect and may actually be a premium lot due to its size and orientation."

The applicant's justification is silent to how this lot design is "clearly superior to what would have been achieved under conventional subdivision techniques" (Section 24-138.01(f)(A)). Staff recommends that Lot 5 be deleted and the land area be redistributed in conformance with staff Exhibit A.

RECOMMENDATION

APPROVAL, subject to the following conditions:

1. Prior to signature approval of the preliminary plan of subdivision the plan shall be revised as follows:
 - a. Reflect staff Exhibit A.
 - b. Provide sidewalks along both side of the internal public street.
 - c. Reflect Parcel A for La Petite Day Care and Parcel B to M-NCPPC.
2. At the time of review of the LDSP, a Type II tree conservation plan shall be approved.
3. Development of this site shall be in conformance with Stormwater Management Concept Plan #24231-2004-00 and any subsequent revisions.
4. Prior to the issuance of building permits, the applicant, his heirs, successors and/or assignees shall demonstrate that a homeowners association has been established if required to accommodate noise mitigation measures and that the common areas have been conveyed to the homeowners association.
5. Prior to approval of the final plat of subdivision a limited detailed site plan shall be approved by the Planning Board or its designee to:
 - a. Ensure noise mitigation measures are established to mitigate noise to 65dBA Ldn from MD 450 and Enterprise Road, and that usable outdoor activity areas outside the 65dBA Ldn mitigated noise contour are provided. A Phase II noise study shall be submitted.
 - b. The noise wall shall be compatible with the SHA noise wall.
 - c. The noise wall shall not be located on individual homeowners' lots if it reduces the yard area associated with the principal dwelling below 20,000 square feet. In order to maintain minimum 20,000-square-foot lots, a homeowners association parcel may be created to accommodate the noise wall and/or associated berm.
 - d. If variances are required (associated with the noise wall), they shall be filed with the LDSP. If not approved, appropriate berming may be necessary, resulting in a loss of lots.
6. Prior to signature approval of the TCPI the plan shall be revised as follows:
 - a. Reflect staff Exhibit A. Provide the required 40 feet of cleared rear yard area between the dwelling and the forest preservation edge, and show a continuous 50-foot-wide wooded buffer/forest preservation area in relation to the stormwater management pond. After this redesign has been made, adjust the woodland conservation worksheet accordingly.

- b. After all revisions have been made, have the qualified professional who prepared the plan update the revision box, sign and date it.
- 7. Development of this subdivision shall be in conformance with an approved Type I Tree Conservation Plan (TCPI/74/03-01). The following note shall be placed on the final plat of Subdivision:

“Development is subject to restrictions shown on the approved Type I Tree Conservation Plan (TCPI/74/03), or as modified by the Type II Tree Conservation Plan, and precludes any disturbance or installation of any structure within specific areas. Failure to comply will mean a violation of an approved Tree Conservation Plan and will make the owner subject to mitigation under the Woodland Conservation/Tree Preservation Policy.”
- 8. Prior to approval of building permits, a certification by a professional engineer with competency in acoustical analysis shall be placed on the building permits stating that building shells of structures within prescribed noise corridors have been designated to reduce interior noise levels to 45 dBA (Ldn) or less.
- 9. Prior to signature approval of the preliminary plan the TCPI shall be revised as follows:
 - a. Show the location, height and materials of the SHA noise barrier.
 - b. Show the two noise contour lines (the 65 dBA Ldn ground noise contours (unmitigated) and the 65 dBA Ldn upper noise contours (unmitigated)) distinguishable with corresponding symbols in the legend, similar to how these lines are shown on the revised preliminary plan.
 - c. Show the conceptual proposed limits of disturbance for installation of the noise barrier.
- 10. At the time of final plat, the applicant, his heirs, successors and/or assignees shall convey to M-NCPPC Parcel A, .36± acres of land, as reflected as DRP Exhibit A. Land to be conveyed shall be subject the following:
 - a. An original, special warranty deed for the property to be conveyed, (signed by the WSSC Assessment Supervisor) shall be submitted to the Subdivision Section of the Development Review Division, The Maryland-National Capital Park and Planning Commission (M-NCPPC), along with the final plat.
 - b. M-NCPPC shall be held harmless for the cost of public improvements associated with land to be conveyed, including but not limited to, sewer extensions, adjacent road improvements, drains, sidewalks, curbs and gutters, and front-foot benefit charges prior to and subsequent to final plat.
 - c. The boundaries and acreage of land to be conveyed to M-NCPPC shall be indicated on all development plans and permits that include such property.
 - d. The land to be conveyed shall not be disturbed or filled in any way without the prior written consent of the Department of Parks and Recreation (DPR). If the land is to be disturbed, DPR shall require that a performance bond be posted to warrant restoration, repair or improvements made necessary or required by the M-NCPPC development approval process. The bond or other suitable financial guarantee (suitability to be judged by the General

Counsel's Office, M-NCPPC) shall be submitted to DPR within two weeks prior to applying for grading permits.

- e. Stormdrain outfalls shall be designed to avoid adverse impacts on land to be conveyed to or owned by M-NCPPC. If the outfalls require drainage improvements on adjacent land to be conveyed to or owned by M-NCPPC, DPR shall review and approve the location and design of these facilities. DPR may require a performance bond and easement agreement prior to issuance of grading permits.
 - f. All waste matter of any kind shall be removed from the property to be conveyed. All wells shall be filled and underground structures shall be removed. DPR shall inspect the site and verify that land is in acceptable condition for conveyance, prior to dedication.
 - g. All existing structures shall be removed from the property to be conveyed, unless the applicant obtains the written consent of DPR.
 - h. The applicant shall terminate any leasehold interests on property to be conveyed to the Commission.
 - i. No stormwater management facilities, or tree conservation or utility easements, shall be proposed on land owned by or to be conveyed to M-NCPPC without the prior written consent of DPR. DPR shall review and approve the location and/or design of these features. If such proposals are approved by DPR, a performance bond and an easement agreement may be required prior to the issuance of grading permits.
- 11. The applicant, his heirs, successors and/or assignees shall provide a standard sidewalk along both sides of Parallel Road within the subject site, unless modified by DPW&T.
 - 12. The final plat shall indicate that access to the site from MD 450 or MD 193 is denied.
 - 13. Prior to approval of the final plat of subdivision and/or any disturbance occurring on this property, the applicant shall submit a Phase I archeological investigation and, if determined to be needed by Planning Department staff, a Phase II and Phase III investigation. If necessary the final plat shall provide for the avoidance and preservation of the resources in place or shall include plat notes to provide for mitigating the adverse effect upon these resources. All investigations must be conducted by a qualified archeologist and must follow *The Standards and Guidelines for Archeological Investigations in Maryland* (Schaffer and Cole: 1994) and must be presented in a report following the same guidelines.

STAFF RECOMMENDS APPROVAL OF TREE CONSERVATION PLAN TCPI/74/03-01.